

Message Text

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FM AMEMBASSY MOSCOW
TO SECSTATE WASHDC 2041
INFO AMCONSUL LENINGRAD
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C O N F I D E N T I A L SECTION 01 OF 02 MOSCOW 11446

E.O. 11652: GDS
TAGS: PDIP, UR, US, ASEC
SUBJECT: IZVESTIYA CRITICIZES PENDING U.S. IMMUNITIES
LEGISLATION

REFS: (A) MOSCOW 3605, (B) STATE 53518, (C) MOSCOW 2738,
(D) STATE 127847(NOTAL), (E) STATE 128838

SUMMARY: IN FIRST SOVIET PRESS REFERENCE TO SUBJECT,
IZVESTIYA ARTICLE ARGUES FORCEFULLY AGAINST PASSAGE OF
BILL NOW BEFORE CONGRESS WHICH WOULD LIMIT PRIVILEGES
AND IMMUNITIES OF PERSONNEL WORKING IN DIPLOMATIC MISSIONS
IN U.S. ARTICLE ALSO CONTAINS OMINOUS HINT THAT IF BILL
LEADS TO LESS FAVORABLE WORKING CONDITIONS, SOVIET
RETALIATION AGAINST AMERICAN PERSONNEL IN USSR WILL
FOLLOW. END SUMMARY.

1. MAY 18 IZVESTIYA CARRIES ARTICLE BY V. NATAL'IN TITLED
"AN IMPORTANT CONDITION FOR THE DEVELOPMENT OF DIPLOMATIC
RELATIONS." IN THE ARTICLE, NATAL'IN ARGUES AGAINST
PASSAGE OF DIPLOMATIC IMMUNITIES BILL NOW BEFORE CONGRESS.
MAIN POINTS OF ARTICLE ARE AS FOLLOWS:
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--THE 1961 VIENNA CONVENTION AND THE SPECIAL US-SOVIET .
AGREEMENT OF 1968 PROVIDE FOR VARIOUS DIPLOMATIC
PRIVILEGES AND IMMUNITIES.

--HOWEVER, THERE ARE SIGNS THAT SEVERAL INFLUENTIAL
FORCES IN THE U.S. ARE TRYING TO WORSEN WORKING CONDITIONS

FOR PERSONNEL OF FOREIGN DIPLOMATIC MISSIONS. "AT THE PRESENT TIME, THE U.S. CONGRESS IS CONSIDERING A BILL 'ON AN ADDITION TO THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS'."

--"THE PASSAGE OF THIS LAW WOULD TO A SIGNIFICANT DEGREE WORSEN WORKING CONDITIONS FOR FOREIGN MISSIONS IN THE USA AND IN THE SAME MANNER WOULD AFFECT THEIR DIRECT INTERESTS AND MAKE MORE DIFFICULT THEIR RELATIONS WITH THE HOST GOVERNMENT."

--THE NEW LEGISLATION ENVISAGES THAT THE STAFF OF FOREIGN MISSIONS WILL HAVE TO PROVE IN COURT THEIR RIGHT TO IMMUNITY IN CASE OF CRIMINAL OR CIVIL PROCEEDINGS AGAINST THEM.

--ACCORDING TO THE US CONSTITUTION, ALL AGREEMENTS BETWEEN THE UNITED STATES AND OTHER COUNTRIES ARE " 'THE HIGHEST LAW OF THE LAND'." THE VIENNA CONVENTION STATES THAT A DIPLOMATIC REPRESENTATIVE DOES NOT HAVE TO TESTIFY IN COURT, EXCEPT WHEN ACTING AS A PRIVATE PERSON. THEREFORE, "THE LEGISLATION NOW BEFORE THE SENATE REPRESENTS A SERIOUS DEPARTURE FROM EXISTING INTERNATIONAL PRACTICE AND THE OBLIGATIONS ASSUMED BY THE USA UNDER THE VIENNA CONVENTION."

MANY FOREIGN MISSIONS COMMENT THAT THE PASSAGE OF THIS LAW COULD LEAD TO FRICTION OR EVEN CONFLICT IN U.S. RELATIONS WITH FOREIGN COUNTRIES.

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--FOREIGN MISSIONS IN THE U.S. QUITE FREQUENTLY POINT OUT INSTANCES IN WHICH STAFF MEMBERS HAVE BECOME THE OBJECTS OF INSULTS, BLACKMAIL, AND EVEN DIRECT ATTACKS. SOVIET DIPLOMATIC MISSIONS HAVE REPEATEDLY MADE SUCH REPRESENTATIONS TO THE STATE DEPARTMENT. HOWEVER, FOR SOME REASON THE GUILTY ARE OFTEN NEVER FOUND, AND EVEN WHEN THEY ARE ARRESTED THEY ARE RARELY TRIED OR PUNISHED.

--THE NEW LEGISLATION DOES NOT ENVISAGE A STRENGTHENING OF STATE AND INDIVIDUAL RESPONSIBILITY FOR THE VIOLATION OF DIPLOMATIC PRIVILEGES AND IMMUNITIES. IT DOES THE REVERSE. "HOWEVER, STRANGELY REPRESENTATIVES OF THE U.S. STATE DEPARTMENT DECLARE IN CONGRESS THAT THE PROPOSED LEGISLATION, IF PASSED, WILL ADD TO THE VIENNA CONVENTION AND FURTHER ITS EFFECTIVE APPLICATION IN THIS COUNTRY."

--"THE NEW LAW COULD LEAD TO THE CREATION OF A SITUATION

IN WHICH THE STAFF MEMBERS OF SOVIET MISSIONS IN THE UNITED STATES WOULD HAVE LESS FAVORABLE WORKING CONDITIONS THAN THE PERSONNEL OF AMERICAN MISSIONS IN THE USSR, I.E., THE PRINCIPLE OF RECIPROCITY WOULD BE VIOLATED. IT WOULD HARDLY BE POSSIBLE TO CONSIDER SUCH A SITUATION NORMAL."

--MUCH DEPENDS ON THE AMERICAN ADMINISTRATION AS TO HOW THE APPLICATION OF THIS NEW LAW, IF PASSED, WILL PRESERVE THE STATUS OF STAFF MEMBERS OF FOREIGN MISSIONS IN THE U.S., AND WHETHER THIS WILL AID IN THE STRENGTHENING OF RELATIONS BETWEEN THE U.S.A. AND OTHER COUNTRIES AND THE SPIRIT OF DETENTE.

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2. COMMENT: WHILE THE SOVIETS HAVE PRIVATELY EXPRESSED THEIR CONCERN TO US ABOUT PENDING IMMUNITIES LEGISLATION

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(REFS A, B, C), THIS IS THE FIRST TIME THEY HAVE GONE PUBLIC. IN SO DOING, THEY HAVE ALSO DROPPED A BROAD PUBLIC HINT THAT UNSATISFACTORY IMMUNITIES LEGISLATION COULD RESULT IN RETALIATION AGAINST AMERICAN MISSION PERSONNEL IN THE USSR. THE ARTICLE IS CAREFULLY PHRASED

SO THAT IT LAYS THE ONUS FOR ANY CHANGE FOR THE WORSE ON THE ADMINISTRATION, AND ALSO IMPLIES THAT THE PASSAGE OF NEW IMMUNITIES LEGISLATION DOES NOT REQUIRE AUTOMATIC RETALIATORY MEASURES. WE NOTE, HOWEVER, SOKOLOV-MATLOCK CONVERSATION OF FEBRUARY 23, 1978 (REF C) IN WHICH SOKOLOV SAID THAT SOVIETS WERE ALREADY PREPARING "RECIPROCAL MEASURES" TO AFFECT US PERSONNEL IN THE USSR IF THE NEW LEGISLATION DEVIATED FROM PREVIOUS US-SOVIET IMMUNITIES ARRANGEMENTS.

3. WE TAKE THE PRINTING OF SUCH A PIECE IN THE CENTRAL SOVIET PRESS TO BE A MARKER OF SERIOUS SOVIET CONCERN, AND ALSO DISSATISFACTION, WITH THE RESULTS OF THEIR PRIVATE DEMARCHES. EMBASSY NOTES THAT WHILE IZVESTIYA ARTICLE APPEARED BEFORE ARRESTS OF CHERNYAEV AND ENGER IN NEW YORK (REFS D, E), IMMUNITIES QUESTIONS RAISED IN THESE CASES CAN ONLY HEIGHTEN GENERAL LEVEL OF SOVIET CONFIDENTIAL

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CONCERN WITH PENDING U.S. IMMUNITIES LEGISLATION. IN LIGHT OF THESE DEVELOPMENTS, EMBASSY REQUESTS UPDATE ON INFORMATION REQUESTED PARA 3, REF C. MATLOCK

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